

PHONORECORDS III PUBLIC VERSION

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Library of Congress
Washington, D.C.



In re

Determination of Royalty Rates and Terms
for Making and Distributing
Phonorecords
(Phonorecords III)

Docket No. 16-CRB-0003-PR
(2018-2022)

AMENDED WRITTEN DIRECT STATEMENT OF GEORGE D. JOHNSON (GEO) (RATES AND TERMS ONLY)

Volume 1

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Wednesday, March 8, 2017

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**AMENDED WRITTEN DIRECT STATEMENT OF GEORGE D. JOHNSON (GEO)
RATES AND TERMS ONLY**

George D. Johnson (“GEO”), an individual §115 songwriter, publisher, and author, respectfully submits this amended written direct statement (“AWDS”) in accordance with 37 C.F.R. § 351.4(b)(3) and (c). GEO has no RESTRICTED version, only this PUBLIC VERSION.

BRIEF STATEMENT OF GEO’S AMENDED PROPOSED RATES AND TERMS

GEO amends his written direct statement filed November 3, 2016 due to new information on Subpart B and C rates and terms, corrections to factual or grammar mistakes, the bifurcation of Subpart A, and possible confusion over GEO’s purchased content locker and rates and terms.

GEO files this amended portion on only rates and terms of his written direct statement.

GEO’s Purchased Content Locker and Subpart A proposals remain about the same but GEO would like to simplify and clarify his rates and terms to offer a broader range of stand-alone Subpart B rates within a “zone of reasonableness” separate from any purchased content or cloud locker proposal by GEO.

As GEO is a Copyright Owner (CO) as well, on the side of NSAI and NMPA, if allowed, *GEO would like to agree with, use and/or "join with" for a lack of a better term, all of NSAI and NMPA's primary economic evidence and economic arguments when applying GEO's amended stand alone Subpart B rates of \$.0022 and \$.0025 per-play for mechanicals beginning in 2018.*

In other words, instead of \$.0015, GEO's rates of \$.0022 or \$.0025 would simply be substituted and plugged in to NSAI and NMPA's evidence. GEO's Per-Subscriber Rate, double what NSAI and NMPA propose, is the same as GEO's written direct statement and can be a "greater of" formula or a stand alone rate.

In addition to GEO's evidence, NSAI and NMPA, their economists, and their evidence clearly proves the loss in music sales the past 20 years as non-interactive and interactive Subpart B streams have clearly "substituted for" or "cannibalized" Subpart A sales during this time.

This is why GEO still proposes a Subpart C type Paid Locker Service ("PLS") or Purchased Content Locker ("PCL") aka "Cloud Locker" option in this CRB rate proceeding, a BUY button, and a Paid Permanent Download ("PPD") which would also eliminate the unpaid *limited download* in 37 C.F.R. 385, Subparts B and C - here the stream and sale should merge.

**PER-PLAY, PERCENTAGE OF REVENUE, AND PER SUBSCRIBER RATES for
SUBPARTS (A) B and C.**

GEO offers a per-play royalty rate model ("PPR") for Subparts B and C as his main proposal but also a percentage of revenue ("POR") model, and a per-subscriber rate ("PSR"). Per-play royalty rates should be consolidated and a standard "minimum statutory rate" applied to all interactive streaming Services benefiting from the compulsory license. This includes a clear royalty rate, that every songwriter and music publisher knows, is happy with, and can rely on.

FOUR PROPOSALS - ROYALTY RATES AND TERMS

Stated another way than the three Subparts, GEO offers four proposals based on a (1.) Per-SubscriberRate ("PSR"), (2.) Percentage of Revenue (POR), (3.) Per-Play Rate (PPR), and (4.) to replace the limited download, a Paid Permanent Download ("PPD) rate for Subpart A and Subpart C Purchased Content Locker with proposed mandatory BUY button for downloads. GEO's Subpart B per-play rates of \$.0022 and \$.0025, like NSAI and NMPA's rate of \$.0015, also include a PSR and POR proposals or an optional "greater of" formula.

1. PER-SUBSCRIBER RATE (PSR)

The per-Subscriber rates requested by GEO are per-Subscriber, per-month:

2018 – \$1.96

2019 – \$2.10

2020 – \$2.26

2021 – \$2.42

2022 – \$2.58

2. PERCENTAGE OF REVENUE RATE (POR)

The percentage of revenue rate requested by GEO is a current marketplace rate of 25 to 40% of "Gross Revenues" for songwriters and publishers, defined in a manner based on the current definition with the clarifying adjustments.

Gross Revenues should also include any Initial Public Offerings ("IPO"), all subscription dollars, advertising dollars, and taking into account the amount of all stock distributions by key executives and/or stockholders, *trading the value of copyrights from copyright owners to stockholders and investors* by way of federal compulsory music licensing.

3. SUBPART B AND C PER-PLAY ROYALTY RATES (PPR)

For all licensed transmissions of Subpart B and C §115 underlying work copyrights, GEO requests the following range of reasonable per-play rates and terms for mechanical royalties:

Proposal 1, §115 Mechanical Per-Play Rate (Zone of Reasonableness)

1. 2018 – \$0.0022
2019 – \$0.0023
2020 – \$0.0024
2021 – \$0.0025
2022 – \$0.0026

Proposal 2, §115 Mechanical Per-Play Rate (Zone of Reasonableness)

2. 2018 – \$0.0025
2019 – \$0.0026
2020 – \$0.0027
2021 – \$0.0028
2022 – \$0.0029

Proposal 3, §115 Mechanical Per-Play Rate - Half-a-Penny

3. 2018 – \$0.005
2019 – \$0.006
2020 – \$0.007
2021 – \$0.008
2022 – \$0.009

Proposal 4, §115 Mechanical Per-Play Rate - Penny (GEO's Best Rate)

4. 2018 – \$0.01
2019 – \$0.02
2020 – \$0.03
2021 – \$0.04
2022 – \$0.05

Proposal 5, Minimum Statutory Rate Applied to a Mechanical (Stream) Per-Play

5. 2018 – \$0.091
2019 – \$0.10
2020 – \$0.11
2021 – \$0.12
2022 – \$0.13

4. PAID PERMANENT DOWNLOAD (BUY BUTTON, PCL, Subpart A)

The per-song §115 rates requested by GEO are a one-time mechanical, per subscriber like Ghosttunes, Google Play download, and Apple iTunes if combined with Apple Music streaming.

The Subpart B streaming mechanical would still apply at \$.0015, \$.0022, \$.0025, or \$.01.

2018 - \$0.75

2019 - \$1.00

2020 - \$1.50

2021 - \$2.00

2022 - \$2.50

The streamers' economic model leaves out one crucial element - *the customer*, and why a Purchased Content Locker is the only reasonable proposal that captures the *true value* of a music copyright today and historically. As Eagle's manager Irving Azoff recently said, "The industry can't be *pacified by lip service* about efforts to create paid subscription services."

GEO thanks Your Honors for your thoughtful consideration on behalf of myself and all U.S. songwriters and music publishers.

March 8, 2017

Respectfully submitted,

By: /s/ George D. Johnson

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CERTIFICATION OF SERVICE

I, George D. Johnson, ("GEO") an individual songwriter, music publisher and music copyright creator, hereby certifies that a copy of the foregoing GEORGE JOHNSON'S (GEO) AMENDED WRITTEN DIRECT STATEMENT FOR RATES AND TERMS ONLY has been served this 8th day of March, 2017 by electronic mail upon the following parties:

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Wednesday, March 8, 2017

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